reproduced exactly

EA 001 666

ED 023 173

By - Shils, Edward B., Whittier, C. Taylor

The Roles of the Superintendent and School Board in Collective Negotiations. Chapter 11, Teachers, Administrators, and Collective Bargaining.

Pub Date 68

Note - 26p.

Available from - Thomas Y. Crowell Company, 201 Park Avenue South, New York, New York 10003 (Complete document 580 p., $9.50).

EDRS Price MF - $0.25 HC - $1.40

Descriptors - Administrative Personnel, *Board of Education Role, Boards of Education, *Collective Negotiation, *Professional Associations, School Superintendents, *Superintendent Role, Teacher Associations, Teachers

Identifiers - AASA, AFT, NEA, NSBA

Attitudes of four groups of professional educators are compared respecting the role of the superintendent in collective negotiations. The AFT sees him as head of the opposition's negotiating team. The NEA sees him as a member of the professional staff and as a neutral catalyst providing resource information while teacher representatives negotiate with a board committee. The AASA sees him in the dual role of chief executive and staff member, but also as an independent third party playing a significant role in the negotiation process. The NSBA sees him as the agent of the board and as a channel and interpreter of staff problems. Unresolved aspects of the superintendent's role include applying the separation-of-power principle to school board organization and joint decision making by the superintendent and the school board. (Authors/JK)

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
OFFICE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL OFFICE OF EDUCATION POSITION OR POLICY.

TEACHERS ADMINISTRATORS AND COLLECTIVE BARGAINING

ED 023173

EA 001 666

EDWARD B. SHILS
Wharton School of Finance and Commerce, University of Pennsylvania; and Negotiation Consultant to the Philadelphia (Pa.) and Wilmington (Del.) School Districts

C. TAYLOR WHITTIER
Executive Director, Central Atlantic Regional Educational Laboratory, Washington, D.C.; and Former Superintendent of Schools, Philadelphia (Pa.) School District

THOMAS Y. CROWELL COMPANY
New York *Established 1834*

Copyright © 1988 by
THOMAS Y. CROWELL COMPANY
All Rights Reserved

Except for use in a review, the reproduction or utilization of this work in any form or by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording, and in any information storage and retrieval system is forbidden without the written permission of the publisher.

Designed by Barbara Kahn

Library of Congress Catalog Card Number: 88-13585

Manufactured in the United States of America
by Van Rees Press, Inc., Binghamton, N.Y.

"PERMISSION TO REPRODUCE THIS COPYRIGHTED MATERIAL HAS BEEN GRANTED BY Mr. Edwin Doremus, Thomas Y. Crowell Company
TO ERIC AND ORGANIZATIONS OPERATING UNDER AGREEMENTS WITH THE U.S. OFFICE OF EDUCATION. FURTHER REPRODUCTION OUTSIDE THE ERIC SYSTEM REQUIRES PERMISSION OF THE COPYRIGHT OWNER."

Preface

In the 1963 Philadelphia School District negotiations with the American Federation of Teachers, one of the authors was Superintendent of Schools while the other served as Chief Negotiator. At the end of seven hundred hours of bargaining, which culminated in the first agreement wherein Philadelphia's schoolteachers were to be represented collectively, the writers agreed to collaborate on a book that would cover the subject of collective bargaining in the schools.

Teachers, Administrators, and Collective Bargaining, the result of that collaboration, has taken approximately two years to prepare, and during the research and writing periods, the writers found that other parts of the country were devising guidelines to fill the gaps in how to go about negotiating a first contract. In the early Philadelphia negotiations, both the administration's representatives and the teachers' bargaining team had to "feel their way along" in order to develop a new institution. The demand by teachers for participation in wage discussions, work-rule formulation, and policy development had no foundation in either Pennsylvania law or school-district enactments. There was a need to formalize teacher-administration relationships, but there was great fear that the board might be bargaining away certain nondelegatable powers. Because each of the parties took a constructive posture, a new institution evolved in Philadelphia which has worked fairly well thus far.

During the two-year period in which this book has been written, other city school districts benefited by the experience of New York City and Philadelphia. Thirteen states—Alaska, California, Connecticut, Florida, Massachusetts, Michigan, Minnesota, New Hampshire, New York, Oregon, Rhode Island, Washington, and Wisconsin—have passed laws, most of them since 1965, which now provide guidelines to collective bargaining for teaching personnel in school districts.

The decision to write the book was made with a sincere desire to share our experiences with other superintendents and negotiators. These experiences perhaps constituted the first partnership between a superintendent versed in educational administration and a labor-relations teacher and practitioner. The writers enjoyed the experience of negotiating and writing together and believe that it is one way in which "Town and Gown" can get together for the mutual benefit of the community.

The writing partner with the industrial bargaining background also had been employed as a personnel consultant by the Philadelphia Board of Education and other school districts since 1946. One of his first assignments after World War II was the development of a single salary schedule for Philadelphia's teachers, and years later, a salary and classification plan for all nonteaching personnel in the Philadelphia schools. These experiences provided him with a valuable background for understanding problems of school administration discussed at the bargaining table. Since completing his negotiation chores in the first AFT contract, he has represented New Castle County and the Mount Pleasant and Wilmington School Districts in Delaware in negotiations with the American Federation of State, County and Municipal Employees, AFL-CIO. The employees involved were in the custodial and maintenance classifications.

On September 1, 1967, the educational administrator part of the team resigned as the Philadelphia Superintendent of Schools to take on an unusually challenging assignment as Executive Director, Central Atlantic Regional Educational Laboratory, in Washington, D.C. In this new assignment, it will be possible for him to serve the states of Virginia, West Virginia, Delaware, and Maryland, as well as the District of Columbia, in providing information on those aspects of the appropriate utilization of professional manpower which stem from research and experience at the negotiating table.

It is apparent that interest in collective negotiations is on the upsurge; the recent increase in teacher militancy has dramatized the need for further education and training in this area. To that end, a number of excellent conferences sponsored by various institutions—Harvard University, the University of Chicago, Rhode Island College, and the University of Pennsylvania—have already been held, and many more are now being undertaken throughout the country. It is the hope of the authors that *Teachers, Administrators, and Collective Bargaining* will be of great value to all those interested in preparing formally for collective negotiations. The success of principals and teachers in "living with the agreement" will depend on a mutual understanding and appreciation of the bargaining process.

The preparation of this manuscript was facilitated by the knowledge and assistance of several individuals. Dr. Herbert R. Northrup, Professor of Industry and Chairman of the Industry Department at the University of Pennsylvania, made available his extensive files in public education as well as other materials relating to his own early research in employee representation activities in several professional fields. Dr. George W. Taylor, Harnwell Professor of Industry at the University of Pennsylvania, helped clarify many knotty issues on important differences between public and private bargaining with respect to the requirements of public welfare. Dr. Taylor's most recent contribution to public bargaining was the 1967 enactment New York State's Taylor Law, stemming from his committee's 1966 researches to assist Governor Rockefeller in developing a comprehensive legislative program to replace the Condon-Wadlin Act. Mr. Walter Duglin provided statistical research assistance and Mr. David T. Rotenberg, Assistant Director of Staff Relations at the Philadelphia Board of Education, assisted in the procurement of important resource materials. Mrs. Dalia Vilgosas and Miss Susanne Iannece, loyal secretaries, deciphered the hurried scrawls on the worksheets and created a readable manuscript. Mrs. Shirley R. Shils and Mrs. Sara Jane Whittier deserve much for their consideration and kindness in overlooking the many absences and inattentions of the authors during the past two years.

E.B.S.

C.T.W.

October, 1967
Philadelphia, Pa.

9. Determining the Appropriate Bargaining Unit and Conducting Elections—Part I 242

10. Determining the Appropriate Bargaining Unit and Conducting Elections—Part II 269

11. The Roles of the Superintendent and School Board in Collective Negotiations 306

12. Preparing for Negotiations: Role of Consultants, Composition of the Negotiating Team, and Preparation of Resource Materials 326

13. The Negotiation Environment and Axioms that Influence Mutual Trust and Bargaining in Good Faith 342

14. The Scope of Negotiations 356

15. Techniques Employed by the Administration and the Employee Organizations Both in Pre-election Campaigning and at the Negotiating Table 390

16. What Demands Can a School Administrator Make upon the Union? 415

17. Negotiating a Grievance Procedure—Should It Conclude with Final and Binding Arbitration? 435

18. Structuring a Teacher Salary Plan under the Influence of Collective Bargaining 472

19. Rejecting Demands Made by the Teachers' Bargaining Agent 498

20. The Response of the Administrator to Salary Requests and Other Economic Demands When the School District is Dependent Fiscally upon City, County, or State Government 509

Chapter 11

THE ROLES OF THE SUPERINTENDENT AND SCHOOL BOARD IN COLLECTIVE NEGOTIATIONS

With the advent of collective negotiations, the life of the city superintendent of schools is growing more difficult each day. Fresh from a series of losing battles with government red tape and revised guidelines in the Head Start, Get Set, and other federal programs for the disadvantaged, as well as the frustrations in implementing pupil and faculty integration plans, the superintendent now finds himself the middleman in the dispute among board, teachers, and taxpayers over recognition and collective negotiations in the schools.

The integration problem should be placed at the doorstep of city hall, because municipal governments have failed to provide fair housing opportunities. Instead, an irate community is focusing attention upon the school system. For some reason, it is easier to point the finger at the school board than at the city council. The superintendent can also try to pass the buck to Washington or to the city's poverty councils. However, school negotiation problems can be attributed only to failures within the school system. In this case, the superintendent has no one to pass the buck to; what's worse, in many instances there is little understanding of the problems he faces by the board and little in the way of staff assistance to help him cope with the emerging problems.

A lack of understanding of the evolving needs of school professional employees may have begun with traditional rigidities on the part of the board, but the superintendent currently has a growing responsibility to respond to the staff's desires for recognition through collective negotiations.

Part of the superintendent's problem about his role in collective negotiations is created by the conflicting attitudes and policies of the National Education Association and the American Federation of Teachers, AFL-CIO, as well as by policies and beliefs of the National School Boards Association and the American Association of School Administrators.

NEA's Position on the Role of the Superintendent During Negotiations

The NEA takes the position that the role of the superintendent in collective negotiations need not change drastically from what his role has been in most school districts for many years, failing to recognize a need for change when teachers and their organizations want more than mild modification. The NEA allocates to the superintendent the double role of being both a member of the school professional staff and the chief administrator of the board of education.

The conflicting role is set forth in NEA's *Guidelines*:[1]

> The Superintendent is the chief executive officer of the board, responsible for administering adopted policy. At the same time he has a responsibility as a member and leader of the professional staff. . . .
>
> In the negotiating process, the Superintendent's role is a central one. Since he probably is in possession of more facts about school revenue and needs than anyone else, it is imperative that he be deeply and actively involved. In the initial data-gathering stages, the board may delegate to the Superintendent the responsibility of working with the association committees. But in the middle and later stages of negotiation, the association committee should work out a solution with the board and Superintendent with ample opportunity for give and take aimed at reaching a cooperative determination.
>
> The Superintendent has the responsibility in the negotiating process to provide information to both teachers and the board, to help clarify issues and otherwise stimulate both groups to put forth their best efforts to achieve agreements which are in the best interests of the total school program. These are complex responsibilities, requiring great skill and educational statesmanship. The effective Superintendent will strive to fulfill them in the best manner possible.

The NEA's Office of Professional Development and Welfare released the previous statement in 1965, and the 1967 *Guidelines* did not add to or delete from it. The authors believe that the statement needs revision in the face of what has transpired since 1965. Boards are now beginning

[1] *Guidelines for Professional Negotiation* (Washington, D.C.: 1967), p. 14.

to hold their superintendents responsible for the conduct of negotiation matters. In 1965–66, most of the negotiations in Detroit took place with an AFT team of professionals facing the superintendent personally at each and every session. Does this mean that the superintendent and the board must have one posture with the AFT and another with the NEA? If so, it does not make sense. There are several apparent weaknesses in NEA policy:

1. To be the chief executive officer of the board means just that. Once a person climbs into the ranks of top professional management, he can appreciate the personnel problems of the lesser professional ranks, but he cannot remain a member of those ranks, literally or spiritually. A superintendent has to recommend the distribution of revenue among the nonprofessionals as well as the professionals. He represents all the employees of the school system and therefore, like a lonely general, must make the line decisions on his own. The board and the community hire a superintendent to manage the school system, not to see the problems of the system only through the eyes of the staff. This dualism must end in order for a board to have strong administration. Suppose a superintendent does not believe that having principals in the bargaining unit with teachers is good for the system? Must he buy this NEA professional unity principle? The next election might see the NEA superseded by the AFT. What should his attitude be then about staff unity?

2. The second part of the NEA policy as quoted utilizes the superintendent as the man with all the facts in his possession and the resource man for NEA bargainers. In private industry one seldom finds the president of a corporation sharing data with the union before the board of directors knows how far they will go in making the union a proposal. The NEA is constantly shifting its historical position such as on Level I and Level II agreements to complex written ones such as the New Haven agreement. NEA has also gone as far as demanding binding arbitration in certain cities. Furthermore, in certain local situations NEA realistically keeps supervisors and principals out of the bargaining unit. It would not surprise the authors if the NEA were to change its position about the *role* of the superintendent during the next few years to one in which he is regarded as the head of the opposition. By being placed in the middle, the superintendent is being weakened in his stature relative to the board. In the long run, this hurts the teachers' cause.

3. The last part of the NEA policy statement views the role of the superintendent as one in which he moves from the teachers to the board and that, through his catalytic influence, they come to a decision. In the first Philadelphia AFT agreement in which both authors participated, one

as Superintendent and the other as Chief Negotiator, the role of the Superintendent was to indicate to the union that he was in charge of negotiations, and that when an issue was resolved to his satisfaction he would recommend it to the board for inclusion in the agreement. This worked well. The board was kept currently informed on the progress of the negotiations and briefing sessions were held frequently with a board committee. The board knew the Superintendent's position and backed him up on most of the issues. Where the board disagreed with the Superintendent, reservations were discussed privately. The net result was smooth negotiating and a mutually acceptable agreement.

Lack of a firm hand by the superintendent as head of his team during negotiations will have a negative influence upon contract administration. When the contract is signed and sealed, grievances have to be settled and the contract interpreted. Lawyers inserted complex protective language into the agreement to arrive at a written meeting of the minds, and contrary interpretations do occur. A superintendent has to make decisions and administer the school system. He can't refer constantly to the board or its attorney during negotiations or during the term of the contract. He is a full-time employee of the system; board members are not. The superintendent is required to administer while the board develops policy. For a smooth personnel relations program to result, the board's policy should live through the superintendent's administration as a full-time leader, or else the board should secure a new superintendent.

In NEA's *Classroom Teachers Speak on Professional Negotiations* the statement is made that "The new role of the Superintendent is one of partnership, not boss." This violates every axiom of organizational theory in the literature of business administration. School systems have never been known for their organizational clarity or their ability to follow sound administrative principles. More and more of the "Young Turks" in the large city school systems are looking to the fields of graduate business administration for the know-how to deal with unions and building contractors. Business faculties at Harvard, Columbia and Wharton would never accept the statement that the superintendent is now the partner, not the boss.

School Administrators View Professional Negotiation

In 1966, the American Association of School Administrators emerged from their silence with a comprehensive position statement on negotia-

tions. AASA reiterated its 1963 position about the "duality" in the role of the superintendent, but specified the alternatives facing the superintendent in collective negotiations:[9]

> *Ever since the third decade of the 19th century, the Superintendent of Schools has been a key person in the education process. The broad outline of the community's educational program emerges as he marshals resources, supplies information, stimulates discussion and research, resolutely faces critical problems, and judiciously weighs alternative courses of action, as he extends opportunities for staff members to acquire new insights; and as he evaluates, recommends, and initiates action.*
>
> *Today, the Superintendent of Schools occupies a complex and demanding position. He is often torn between diverse alternatives, obligations and responsibilities.*
>
> *Yet, it seems clear that the professional Superintendent has one allegiance that transcends all other commitments. Although he is a devoted member of his professional group and deeply concerned with the success of his associates, his allegiance to the learner supersedes all other loyalties. This commitment need not and should not place him in conflict with his colleagues. In very sincere sense makes him seek assiduously and vigorously to maintain environmental circumstances which his associates desire, need, and must have to work to the best advantage. One of the major concerns of the Superintendent always has been and always should be to help provide those conditions which enable teachers and all other staff members to achieve their professional goals.*
>
> *Neither does this freedom of operation by the Superintendent suggest disloyalty to the school board. It is his professional judgment, wisdom and leadership that make him valuable to the board. School trustees should never seek nor achieve subservience from the school administrator. In fact, when controversy rages most violently, his role is one of independent, judicious statesmanship governed largely by his depth of professional insight and his primary commitment to improved educational service to pupils and to basic human values.*

The previous statement is very idealistic and assumes that board members will be equally so. Superintendents are expected to make their wisdom and professional knowledge available to all members of the school family—board, staff, and teachers—without partisanship. The facts are, however, that board members are often more interested in the response of community groups to teacher salary programs, transfer policies, and similar controversial collective negotiation items than the idealistic position of a superintendent.

Assume that the teachers want a seniority transfer plan, but the com-

[9] American Association of School Administrators, *Roles, Responsibilities, Relationships of the School Board, Superintendent and Staff* (Washington, D.C.: 1965), pp. 8-9; and *School Administrators View Professional Negotiation* (Washington, D.C.: 1965), pp. 12-14.

munity wants faculties balanced as to age, sex, race, and experience. What does the superintendent do: present the pros and cons to the board negotiating committee, or act as the chief administrator of the school system to negotiate with the teachers' agent and win agreement on a transfer plan, good for the teachers, for the children, and for the community—and then get the board to approve it? Unless the superintendent takes such a leadership position on a vital issue, it is the opinion of the writers that he will eventually become subservient to the board. He can't be an arbitrator, wise as he is, unless both parties give him the right to make a *decision*. Following AASA's advice, the superintendent can wind up only as a go-between; and without the recourse of taking his position to the public may have to shoulder the responsibility for an ill-considered board policy.

The AASA indicates that two extreme positions have been voiced about the superintendent's role in negotiations: "(a) that he be completely bypassed and have no place in the negotiative process, and (b) that he be the chief negotiator representing only the board of education in all its dealings with the staff."[6] AASA recommends a role midway between these two extremes. The organization wants the Superintendent to play a "significant" role in negotiations: "He should be an independent third party in the negotiation process." AASA believes that he can achieve the unique role of third party significance by reviewing each proposal and counterproposal in the light of its possible impact on the welfare of children. "He will continue to serve as interpreter in difficult communications with the board and the staff."[7]

The AASA also points out that someone must head the board's negotiation team, but it should be not the superintendent but instead one of his staff, possibly an assistant superintendent or personnel director. This unique proposal would put the subordinate in the position of looking to his superintendent as a "third party" rather than to his superior for advice and guidance.[8]

AASA states that "in no instance should the responsibility for negotiations be delegated outside the profession."[9] This is the crowning blow to the poor superintendent. If the AASA wants him to be neutral, the board in the absence of the superintendent's leadership at the bargaining table ought to employ the advice and guidance of a professional from the outside.

Although AASA insists that the superintendent not be by-passed, the best assurance that this might happen to any well-meaning superintend-

[6] AASA, *Administrators Plan Negotiation*, p. 10. [7] *Ibid.* [8] *Ibid.*
[9] *Ibid.*, p. 25.

dent is for him to become a steady go-between, rather than a true leader. There is not a single valid reason why the superintendent cannot be the leader of the administration's forces and still be genuinely concerned about teachers and children in the system.

Dr. Calvin Grieder, Professor of School Administration at the University of Colorado, had this to say about the emerging role of the superintendent:[7]

> It is becoming apparent that the Superintendent's proper role is to represent management, i.e. the board of education, and through it, the public. He cannot be a go-between—the man in the middle between teaching personnel, other employee groups, and the board of education.
>
> In many cases, teachers' groups have demanded and won the right to deal directly with the board, by-passing the board's chief executive. This is analogous to a labor union's insisting on collective bargaining with a company board of directors, which is rare, if indeed it is ever done. Unions bargain with company executives or their bargaining representatives, not with the board of directors.

Dr. Grieder also pointed out the nature of the legal conflict in the role set up by the NEA and the AASA in collective negotiations:

> In universities we have taught and written for many years that the Superintendent is the board of education's executive officer, and in some states the position is so defined by law. Unless this status is to be changed, I do not see how the Superintendent can be excluded from the negotiating or bargaining process. Experts may still be employed to assist management in bargaining as employee groups may see fit to do, but the Superintendent remains the board's chief representative.[8]

The authors are concerned that if a teachers' organization by-passed the superintendent and negotiated with the board, but was in time overturned by the AFT, might the AFT then expect to start negotiations with the superintendent or the board?

The AFT Attitude Toward the Role of the Superintendent in Collective Negotiations

The NEA and AFT approach to negotiations have many similarities but some basic differences. According to Dr. Stinnett, a specialist in the Division of Educational Organization and Administration, U.S. Office of Education, and author of the important 1964 study *Teachers Negotiate with Their School Boards*,

[7] Calvin Grieder, "Superintendents Cannot Face Union Bargaining Teams Alone," *The Nation's Schools* (July 1966), p. 6.

[8] *Ibid.*, p. 8.

> The NEA and AFT, while in agreement on many important aspects of collective negotiation and on what they see as need for legislation, disagree on certain points. They disagree, for example, on the role of the Superintendent. . . . The AASA, representative of the "man in the middle," is naturally deeply concerned over the matter, including any possible diminution of the Superintendent's role in the total area of board-staff relationships.[9]

Steffensen states that the attitude of the AFT is different from the NEA on the role of the superintendent in negotiations. While the NEA and the AFT in their respective procedures in "professional negotiation" and "collective bargaining" both call for teachers and school boards to select representatives for the two bargaining committees, the AFT's position is that the superintendent is not acceptable as a spokesman for both teachers and board at the bargaining sessions, but should be part of the board's negotiating team.

A further statement by Dr. Steffensen shows that the AFT looks upon the superintendent as the "boss" of the opposition:

> The proposals currently being made either state or imply that the two parties (in negotiations) will be the teachers and their boards. As much as any other individual within a school community, or as much as any other group, the Superintendent is deeply involved in discussions between the teachers and their boards. Both teacher organizations call for direct face-to-face communications with the board of education. The AFT, as a proponent of collective bargaining, *regards the Superintendent as the employer at the negotiating session.* The NEA position on professional negotiation views the Superintendent in a dual role—executive officer of the board and professional leader of the professional staff.
>
> The development of a definition which recognizes both the dual role of the Superintendent and the need for direct communication with the board offers a challenge. The Superintendent's role needs to be defined just as concisely and clearly for the board as it is for the teachers—and for the Superintendent. Rightly or wrongly, the role does not appear to be defined as precisely for "professional negotiation" as it is for "collective bargaining [italics added]."[10]

The Attitude of the National School Boards Association toward the Role of the Superintendent in Negotiations

NSBA in its 1963 convention in Denver, Colorado, placed itself squarely on record against strikes, sanctions, boycotts, and mandated

[9] James P. Steffensen, "Board-Staff Negotiations," *School Life* (October 1964), p. 2.
[10] *Ibid.*, p. 4.

mediation. It urged local school boards to incorporate certain policies and procedures to obviate the needs for strikes and sanctions. One of the suggested policies was: "Policies whereby the Superintendent as administrative officer for the board, can function as a channel and interpreter of teacher concerns to the board and of board responsibilities and concerns to the teacher. Direct hearings with the board should be arranged through the Superintendent if this proves inadequate." [11]

The lack of realism in the NSBA's position is pinpointed by a statement made in December 1964 by Mrs. Fred A. Radke who had served the previous year as NSBA's national president:

> At the present time, I think there is little doubt that most school boards are aware of and understand the pressures which are building up to change established board-staff relationships, and little doubt that problems in this area have become widespread.
>
> A recent survey by the NSBA office indicates this. Of the 45 states replying to a questionnaire sent to all state school board associations, 34 said they believed the problems attendant to board-administrator-teacher relations would increase in number and significance in their own state. Eleven replied that the problems would remain at about the present level. It is interesting to note that no state indicated that the problems would decrease.
>
> Public awareness has grown too as hostility among teachers, administrators and board members has become apparent in many local settings, and as teachers in increasing numbers have manned picket lines, crippled entire school systems with strikes and boycotts and have even imposed sanctions on the school districts of an entire state.[12]

Mrs. Radke's statement implies that NSBA finds itself in a conservative and helpless position. As a result of its survey, the organization knows that many school systems are "going up in flames" because of a lack of communications on the subject of formal negotiations. Despite the knowledge garnered by the survey, NSBA still wants the superintendent to function as a "channel and interpreter" of teacher concerns to the board and only to go as far as arranging for a hearing with the board.

The NEA reduces the superintendent to the go-between; the AASA sees the superintendent in a "dual" role; the NSBA views him as a "channel or interpreter." None of these roles are dynamic and they will result in destroying the effectiveness of the superintendent with his own staff, with the community, and ultimately with the school board. If there

[11] Wesley A. Wildman, "Collective Action by Public School Teachers," *Industrial and Labor Relations Review*, Vol. 18, No. 1 (October 1964), p. 14.

[12] Mrs. Fred A. Radke, "Real Significance of Collective Bargaining for Teachers," *Labor Law Journal* (December 1964), p. 798.

were no crises, a superintendent could get by as a middleman, but with the crises arising regularly in collective ngotiation matters, sooner or later board members occupying elective positions will fall upon the political advantage of buck-passing, and many superintendents who have been conscientious and sincere will have to go.

In 1964, NSBA further immobilized the professional leadership possibilities of school administrators by the following statement:

> The National School Boards Association believes that . . . it would be an abdication of their decision-making responsibility for school boards to enter into compromise agreements based on negotiation or collective bargaining, or to resort to mediation or arbitration, or to yield to threats of reprisal; and that concern for the public welfare requires that school boards resist by all lawful means the enactment of laws which would compel them to surrender any part of this responsibility.[13]

NSBA does not want the state legislatures to change the laws that now make it extremely difficult for boards to delegate powers which are placed by the legislature in its hands. It appears that many local boards will be relieved at not having to take the initiative, unless the law requires it.

In 1965, NSBA, seeing that many states were beginning to pass laws mandating professional negotiation or collective bargaining in public education, amended their earlier position, ever so slightly:

> School boards, subject to the requirements of applicable law, should refrain from compromise agreements based on negotiation or collective bargaining, and should not resort to mediation or arbitration, nor yield to threats of reprisal on all matters affecting local public schools, including the welfare of all personnel. They should also resist by all lawful means the enactment of laws which would compel them to surrender any part of their responsibility.[14]

The 1965 statement is the same as that of earlier years except for the recognition that NSBA must obey the new bargaining laws, and should "legally" continue to lobby against the enactment of additional ones.

For the superintendent to know what to do with respect to his role in collective negotiations, the AASA and the NSBA should get together in a joint national convention. Each association ought to consider what the role of the chief executive should be in the event that an AFT local

[13] From a resolution adopted by the National School Boards Association, Philadelphia, Pa., May 1961, and reaffirmed in substance at the convention in Denver, Colorado, May 1963, and in Houston, Texas, April 1964.

[14] National School Boards Association, "Beliefs and Policies," as adopted by NSBA Delegate Assembly, April 3-6, 1965; reprinted in *National School Boards Association Information Service Bulletin*, Vol. 3, No. 2 (June 1965), p. 1.

wins an election, at which time the teachers would view the superintendent, not as one of the staff, but as chief agent of the employer.

Bypassing the Superintendent

Since most of the national organizations, with the exception of the AFT, now place the superintendent as middleman, more and more teachers and administrators will now bypass him on personnel matters and take their problems to the board of education. In many cases he won't even know about the grievance until it is brought up at a board hearing. When controversies break out, newspapers will quote the teachers before a superintendent has heard of the case—an embarrassment when reporters call for a statement. The board may question the superintendent about losing control of the staff, but the staff will not respect the superintendent unless they have the impression that he is the chief administrator of the school system and can make decisions within the context of policies laid down by the board.

As NEA or AFT gains power as the exclusive agent, more and more problems will be laid in the laps of board members unless it is made clear in the early days of negotiation that the superintendent is charged with and is actually running the schools.

The superintendent, in the opinion of some experts, should stay as the man in the middle, because this is the safest place in the fracases that are now taking place between the board and the employee's representative. In the face of pressures for written contracts between teachers' organizations and boards of education, one publication interested in educational administration offers this advice to superintendents:

> These agreements are a step forward. They are expressions of the willingness of the boards, administrators, and teachers to put their heads together to come up with the best education possible for students. These agreements, however, create a problem for the Superintendent.
>
> They place him smack in the middle between the board and the teachers' organization. So long as their relations are amicable, the Superintendent will have little difficulty in mediating between them but if the relations deteriorate and teachers and board clash, the middle-man may come under fire from both sides. And, if the battle gets heated enough, he may be the major casualty. [The advice then given to the superintendent is to control behavior carefully—] . . . If you face this unpleasant possibility, forestall it by working to keep teachers and board on friendly terms and willing to negotiate in good faith. . . . Then when negotiations do start, act as much as you can, as an independent third party who eyes every

> proposal in light of its effects on students and who makes his own recommendations to both parties in an attempt to bring them to agreement. And above all, build a reputation as a man who sides not with the board or the teachers but with the good of the students.[13]

This would be a difficult role for any forthright superintendent to play. He would have to be a diplomat rather than a school administrator. He would have to stand mute, even though one of the parties might be "dead wrong." If being a school superintendent is a profession, there should by all means be professional honesty in his conduct. His investiture by the state with a superintendency carries not only a responsibility to children, but also to the citizens and taxpayers. There are times when the community expects the superintendent to speak out.

Kleinmann reveals NEA logic on the role of the superintendent in negotiations:

> The basic contention of those who hold that the Superintendent must align himself with one faction or another in the negotiation process is that he cannot "serve two masters," that he cannot remain neutral if there is a conflict of opinion between teachers and board. This contention is valid only if the Superintendent's role is narrowly perceived as being analogous to that of the manager of a corporate enterprise.
>
> Another line of reasoning holds that the Superintendent is being bypassed in the negotiation process, that teachers seek to go around the Superintendent in their dealings with the board of education. While it is true that teachers *do* seek to deal directly with the board of education, this is so because meaningful negotiations over many aspects of the educational program can be conducted only with persons who have policy-making authority. This becomes even more crucial when negotiating on matters having fiscal implications. To deny teachers access to boards of education is to indulge in the grossest form of paternalism; moreover, such action connotes a serious lack of security on the part of administrators who engage in it. Superintendents in hundreds of districts throughout the nation have for years encouraged boards of education and teacher organizations to come together for the purpose of discussing mutual problems and matters of educational policy with no discernible loss at all in their prestige or authority. In fact, such practice fosters desirable working relationships and a high degree of staff morale in school districts which actually *enhances* the position of the chief school administrator rather than detracting from it.
>
> The contention of those who believe in professional negotiation as a rational process for solving educational problems is that the Superintendent can and should play a role which aligns him with neither the school board nor the teachers' organization. Rather, he should function as an active participant in the negotiations, favoring neither side but giving

[13] *Education's Dispatch, The Letter for Administrators*, New London, Connecticut: Croft Educational Services, Vol. 10, No. 11 (July 13, 1961), p. 4.

both the benefit of his knowledge, experience, and educational statesmanship.[16]

In Connecticut, Kansas, New Jersey, and Minnesota, state educational associations affiliated with the NEA have issued *Guidelines*, sometimes with the joint cooperation of the state department of education (in Connecticut and New Jersey) and sometimes with the state association of boards of education (in Connecticut, Kansas, New Jersey, and Minnesota).

The Connecticut *Guidelines* required the superintendent to "advise both groups in accordance with his best professional judgment," be "actively involved" in negotiations, and "provide information and counsel to both the board and the teachers."[17]

To implement the NEA expectations, a superintendent would have to act in so many ways that he would be a different man to each party in controversy. With the community, he would tell higher teacher salaries with such words as "excellent" or "quality" education; to the teachers, he would have to suggest "moderation" or "compromise"; and to the board, he would give silent assent to their actions, particularly silent if they refused to go along with teachers' demands. The writers do not recommend such a "safe" position for the superintendent. No job is worth such self-effacement.

The Superintendent Needs Staff Help in Negotiations

If a board is wise enough to give the superintendent his proper status in negotiations as Chief Negotiator, in name if not in actuality, he needs staff help. Dr. Calvin Grieder makes good sense on this subject:

> Now, the Superintendent should not be allowed to stand alone as the representative of management, and I mean literally alone. Rather he should be the head man of the administrative corps of the school system. The management team includes Associate and Assistant Superintendents, Directors of Divisions and Bureaus, and Principals—in short, all who have administrative responsibility, as distinguished from staff responsibility.
>
> To consign the Superintendent alone to the face of confronting a highly

[16] Jack H. Kleinmann, "Guidelines for Professional Negotiation," paper presented before the American Association of School Administrators, Atlantic City, N.J., February 15, 1966 (mimeographed), pp. 11–16.

[17] Report of Committee on Working Relations Between Boards of Education and Teachers Organizations; Bulletin 83, State Board of Education, Hartford, Connecticut, 1962 revision.

trained and experienced bargaining team, furnished perhaps by a national union, is unthinkable."[3]

Dr. Gotsick points out that a big-city superintendency is no longer a one-man job, but a complex of "functions, duties, powers, responsibilities and activities," manageable only by a skilled administrative corps.

The superintendent must receive advice about negotiations from an advisory committee of his top administrative staff. He must be assisted by a personnel director, who in a large city should be at the rank of associate superintendent. If the board employs a lawyer, he should be consulted at various points during the negotiations. Ultimately, through his legal recommendations on negotiability, he should assist in bridging any gaps of misunderstanding with the board. This should be done near the end of negotiations. Also, it would be most helpful for the superintendent to have on his staff a consultant with personnel experience in both private industry and in public administration. This expert could bear the brunt of directing negotiations, and report his progress regularly to the superintendent and the advisory committee for review and discussion. The use of the outside consultant will take some of the pressure off of the superintendent, who would be assisted to face personally his teachers and staff each day at the bargaining table.

When School Boards Negotiate

School board committees set up to negotiate could be compared to part-time, unpaid corporate directors set up to negotiate. Part-time directors would *never* act without the essential expert assistance of the vice-president for industrial relations, the vice-president for manufacturing, the director of finance, and the firm's legal counsel. It wouldn't make good sense to do this in business and it does not make sense to do it in public education.

Board members are usually elected officials, vulnerable to political approach by unions and other employee organizations, and necessarily sensitive to their public images. This may seriously influence their impartiality in negotiations. The superintendent, while concerned with the public, is not elected, generally has a contract for a few years, and knows his status in the profession.

Collective negotiations can take countless hours of meetings and research. The collection of background data and its presentation is more efficient in the hands of the professional team under the direction of the

[3]Gotsick, *The Nation's Schools*, p. 6.

superintendent. From time to time, the superintendent, the chief negotiator, and the general counsel should go to the board and explain progress and receive recommendations concerning the tax and fiscal situation.

If the board initiates negotiations early and then tires, it will not show strength to call upon the superintendent for help at this stage. Also, by this time, it will be too late to win concessions.

The board should be held in reserve. In the first Philadelphia negotiations, the union was unaware of the board's intentions on critical areas of the agreement. They were told that "we will recommend this to the board, but we are not quite certain about their position on this issue." This placed the administration negotiators in the position of trading off countless minor demands, which were not life and death issues with the union. For example, the union was told that the Philadelphia board would never accept arbitration. The unwillingness of the board to grant arbitration made it easier, however, for the union to win a substantial salary increase. By the 1968 Philadelphia negotiations, the board did finally accept arbitration, because it got more closely involved in negotiations and found it impossible to duplicate the 1965 image of "negative reserve."

Once negotiations are terminated and more funds are necessary, the board can be of great value by taking an active interest in the raising of new revenue from the state legislature or from the city council. At this point political involvement is helpful to administration and employee organization alike.

From a number of studies made of negotiating patterns in small school districts it appears that usually a teacher committee negotiates with a board committee and gradually the superintendent is dragged into finishing the job. Turning over the advanced stages of the negotiation to the superintendent is not exactly what the NEA would like—they want to keep the superintendent as the neutral for the whole distance. However, it does match the expectations of the NSBA, which thinks of the superintendent as the "agent of the board."

The authors believe that board members ought to be free of administrative detail, an inevitable part of negotiations, to perform their jobs of planning and policy-making more effectively.

Are School Boards Adequate?

Recently, John W. Gardner, U. S. Secretary of Health, Education, and Welfare, stated that most local school boards are, for the most part, in-

adequate. He laid down five criteria for judging the school board—the quality of its members, its communication with the community and school administrators, its command of information, its liaison with other community programs, and its freedom from administrative detail in order to be able to set policy effectively.

Gardner stated that "most of our school boards would fall short on one or another of these points. . . . They need to be improved."[28]

A major weakness of school boards is the fact that many of them actually want to run the school system and to get involved in administrative detail. An over-interest in negotiating contracts with employee organizations is a mistake of the same nature and type. School boards are not trained to negotiate agreements nor are they trained to administer these agreements. Taking over a personal function of the superintendent of schools is a bad mistake which is covered by Gardner's criticism.

Many school boards are so bogged down with administrative detail that they have to reorganize their own internal administration. Thinking about administrative reorganization is time stolen from deliberating and developing educational policies.

Recently, the New York City school board announced a major reorganization of its procedures and plans to establish a new post of executive assistant to the board in order to improve efficiency. The executive assistant is supposed to act as the clearinghouse for information desired by the board members, and to supervise three research assistants to be appointed by the board. The new assistant will also serve as a liaison with the superintendent between board meetings, cooperate with the superintendent and the board's secretary in the preparation of agendas for the board meetings, follow up committee assignments of board members, attend committee meetings and provide help for committees, act as a resource to the coordinator of local school boards, maintain appropriate contacts with foundations and civic groups, assist the board through means of reports, and otherwise do what the board may request.[29]

Part of the responsibilities assigned to the executive assistant in the New York City board reform really belong to the Superintendent of Schools. It appears that the board now wants to have its own separate secretariat. Soon it will be necessary for someone to coordinate the board, the secretariat, and the superintendent. Parkinson's Law will soon apply. With board members these days taking more and more of a public position on integration, teacher bargaining rights, and so forth, competition begins to develop between the school board and the superintendent for the *last* word in matters significant to the public. In

[28] *Philadelphia Evening Bulletin*, April 13, 1966, p. 4.
[29] *The New York Times*, September 4, 1965, p. 23[illegible].

March 1966, board member James W. Clement announced his resignation from the Chicago Board of Education, contending that Superintendent Willis was running a dictatorial administration. Mr. Clement's chief criticism was that Mr. Willis had not conferred with the board before raising salaries of top aides.[28] The matter of taking individual salary promotions to the board on a recurring basis is another indication of the administrative detail which boards appear to relish. If a board of education determines a personnel policy in conjunction with the superintendent which involves an employee classification and compensation plan, there is no reason for the board to approve every individual personnel action.

Applying the Separation-of-Powers Principle to School Board Organization

The superintendent should be likened to the President of the United States and the school board to the Supreme Court when considering the final appeal on a grievance. Traditionally, boards have acted as a source for last appeal when an aggrieved employee wanted a binding decision beyond the management hierarchy. Now that grievance procedures are being formalized, the school board would like to be the last step prior to submission of the dispute to informed "neutrals" with powers to recommend only. This is the NEA proposal shared by the AASA.

The New Rochelle NEA agreement at Level III states: "If the grievance is not resolved by the Superintendent or his representatives and the ad hoc committee within five days of its consideration of them, it shall be referred for consideration to the Board's Review Committee."[29] If the board's Review Committee can't settle the dispute, it goes to an arbitrator for an advisory recommendation to the entire board.

The authors suggest that if the board wants to be in an appeal position on grievances, it should look to the superintendent as the chief administrative officer of the board and not cut down his authority in dealing with employee organizations by separating him from his role as the chief officer in negotiations. Teacher organizations would then consider the school board an impartial review board rather than an antagonist with whom they negotiate.

A union or other employee organization might readily accept negotia-

[28] The New York Times, March 2, 1966, p. 22.

[29] Article VI, Agreement, City School District of New Rochelle, N.Y., and New Rochelle Teachers Association (NEA), effective July 1, 1964, to June 30, 1965.

tions with the superintendent, but judicial review in the hands of the school board. Boards of education, at the present time, are loath to accept the last step of the grievance procedure—binding arbitration—which is recommended by the AFT and has already been incorporated in the New Haven NEA contract. Agreeing to binding arbitration means that a board has legislative authority on policies and programs and also quasi-judicial authority on grievances. Strengthening the hand of the superintendent in negotiations may go hand in hand with strengthening the board's position as a judicial review body.

Joint Decision-Making

School boards and superintendents have had their power modified to some extent by the acceptance of employee organizations as exclusive bargaining representatives. However, bargaining representatives do not have the right to take away from superintendents or school boards legitimately exercised authority stemming from state laws or mandates.

If state legislation provides teachers' organizations with additional powers, joint decision-making will be possible in many instances. If this occurs, boards would do better to permit the initial impact of demands in such areas as class size and teacher time allocation to fall upon the superintendent and his staff. Joint decision-making will affect the prerogatives of the superintendent even more than the board, for he must have answers on accommodating teacher demands to the efficient management of the schools.

Conclusions

With the advent of collective negotiations in public school systems, the role of the superintendent will change. In most school districts, the superintendent has never dominated the school board. When new and unusual problems developed, he had to work very closely with the school board in the solution of these problems. Today, with the spirit of collective bargaining in the air, school boards should appreciate superintendents who are strong executives and can resolve some of the problems of personnel administration and collective negotiations without involving the board at every turn.

In the larger cities, today, a school superintendent requires a background in business administration similar to that of the executives of

large corporations who are constantly involved in decision-making with unions. If a school board becomes involved in negotiations too early in the game, it *loses* away its powers, which would better be held in reserve as an adjunct to the superintendent's authority.

NEA professional-type negotiations start with the board and both parties only utilize the superintendent as a source of information. This type of bargaining ignores the superintendent as the chief executive of the school system.

The superintendent's job cannot be viewed as a one-man operation, particularly in large districts where bargaining is a complex business. The superintendent needs a team, and his assistant for collective negotiations should be a personnel expert.

Calvin Gross, former Superintendent of New York City's school system, is reported to have insisted upon the need for expert advice on negotiations for superintendents: "A Superintendent can't go into negotiations without professional advice. If he does, he'll get murdered—I don't care how smart he is. He'll be a babe in the woods if he doesn't receive advice from people experienced in labor-management relationships."[8]

In the large districts, a position designated as Associate Superintendent for Personnel Administration is beginning to emerge, who has authority for both professional and nonprofessional personnel. If a superintendent is the system's chief executive, he should appear frequently at the bargaining table. The best image of a confident administration is expressed by the presence of the "boss" at negotiations in the company of his personnel director, financial and legal advisors, and his independent labor consultant who may act as chief negotiator. Until the contract is ready to be signed and sealed, it should be the superintendent, not the board, who makes decisions when there is an impasse at the bargaining table.

The use of the superintendent and his team for intensive negotiations, rather than the school board, will in a sense direct the bargaining activity through an integrated approach. Both the superintendent and the teachers are interested in the welfare of the pupils and familiar with the day-by-day operation of the schools.

In reviewing the relative position on the superintendent's role of all the organizations involved, the writer came to the following evaluation: The AFT sees the superintendent as head of the opposition's negotiating team. The NEA sees him as a member of the professional staff and a

[8] Aaron Gallucho, "How New York's Gross Lives and Learns with Unions," *The New York School*, LXXXIV (November 1963), p. 18.

neutral catalyst, providing resource information, while NEA negotiates with a board committee. The AASA sees the superintendent in the dual role of chief executive and staff member, but also as an independent third party playing a significant role in the negotiative process. The NSBA sees the superintendent as the agent of the board and a "channel and interpreter" of staff problems.

While it is necessary for a superintendent to work with all parties, including the community, he must retain an image of strength and leadership in order to do justice to his mandate from the state. The authors would like to see the superintendent regarded in the same light as a "corporate president" who has the backing of his board of directors and the respect of his stockholders and employees. We liken the stockholders in this parallel comparison to the public; it is they who "own" the school system.